

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 15627 of 1994

Reserved On : September 16, 2015

Pronounced On : 24.09.2015

D. L. Sud		Petitioner
vs.		
Punjab State Electricity Board and another		Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Kamal Sharma, Advocate
for the petitioner.

Mr. G. S. Ghuman, Advocate
and Mr. H. S. Ghuman, Advocate
for the respondents.

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DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks quashing of order of promotion of respondent no. 2 to the post of Executive Engineer. He further prays for the issuance of a direction to the respondent – Punjab State Electricity Board (hereinafter referred to as – the Board) to promote him as Executive Engineer from the date his junior – respondent no. 2 has

been promoted, with all consequential benefits.

The facts necessary to appreciate the controversy in issue are that on 29.10.1954, the petitioner was appointed as Draftsman in the PWD Department, Electrical and Mechanical Branch of the State of Punjab. In the year 1959, on the incorporation of the respondent Board, the services of the petitioner were transferred to the Board. In the year 1976, while serving the respondent Board, the petitioner was promoted as Assistant Executive Engineer. Thereafter, it is the case of the petitioner that his juniors were promoted as Executive Engineers, while he was ignored. In protest, he filed representations, which remained unanswered, forcing him to knock the doors of this Court through the present petition.

I have heard counsel for the parties and with their able assistance, have also gone through the record of the case.

The petitioner has been denied promotion to the post of Executive Engineer in view of the bar existent in Regulations 10.8 (e) and (f) of the Punjab State Electricity Board Services of Engineers (Electrical) Regulations, 1965 (hereinafter referred to as – the 1965 Regulations), which is reproduced below :-

“(e)

Similar procedure shall be followed while making promotion to the post of Executive Engineers in each category except in the case of non-diploma holders Assistant

Executive Engineers who shall not be considered for further promotion as Executive Engineer.

(f) Non-diploma holders Assistant Executive Engineers shall not be eligible for promotion as Executive Engineers, and Diploma holders Executive Engineers shall not be eligible for promotion as S.Es.”

As per the above reproduced Regulations, there is a bar for non-diploma holders Assistant Executive Engineers from being promoted to the post of Executive Engineers.

The petitioner does not possess a Diploma, and thus, has not been considered for promotion to the post of Executive Engineer.

Counsel for the petitioner submitted that the provisions of the 1965 Regulations would not apply in the case of the petitioner and in his case, the Punjab Service of Engineers (Electricity Branch) – Conditions of Service Rules, 1939 (hereinafter referred to as – the 1939 Rules) would apply as his conditions of service could not have been changed on his transfer to the respondent Board.

In spite of the repeated queries put, the 1939 Rules have not been shown. Reliance was placed on letters Annexures P-1 and P-2, which were addressed to the other employees, who, as per the counsel for the petitioner, were similarly situated as the petitioner. A perusal of these

Annexures shows that the contents of these Annexures pertain to pay fixation and not to promotion.

Counsel for the petitioner also pleads discrimination. It is stated that four gentlemen namely Sarvshri M. S. Kohli, M. L. Garg, M. L. Gupta and Gurmukh Singh possessed similar qualifications as the petitioner, but have been promoted as Executive Engineers.

As directed by this Court, the original service record of all the above said four gentlemen was produced, perusal of which revealed that Shri M. S. Kohli was a Degree holder, whereas Sarvshri M. L. Garg, M. L. Gupta and Gurmukh Singh were recorded as Diploma holders, in contradistinction to the qualification held by the petitioner, which is a Certificate Course. Thus, on perusal of the record, no discrimination was found.

Though in the writ petition filed by the petitioner discrimination was pleaded citing the names of above referred four individuals, in a subsequent affidavit, some other names have also been mentioned by the petitioner alleging discrimination. Counsel for the petitioner prays that service record of those individuals be also summoned. I do not agree with the request made by counsel for the petitioner as this Court is not expected to conduct a roving inquiry, especially in view of the fact that the averments made by the petitioner in the writ petition, on perusal of the original service record, has been found to be false.

Even otherwise, there is a complete bar against promotion of

non-diploma holders to the post of Executive Engineer. The petitioner does not possess a Diploma. Even if it is assumed that non-diploma holders have been promoted, a plea of discrimination cannot be raised by the petitioner qua a wrong.

The other argument raised by learned counsel for the petitioner, claiming equivalence of the Certificate Course done by the petitioner with a Diploma Course, is also required to be considered to be rejected. A perusal of Regulation 10.8 (e) and (f) of the 1965 Regulations does not make eligible the persons for promotion to the post of Executive Engineers who hold an equivalent qualification. Only Diploma holders are eligible. Regulation 10.8 (e) and (f) have not been challenged by the petitioner.

In view of the above, finding no merit in the writ petition, the same is ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 24.09.2015

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